

**§ 300.752 Annual report of children served—certification.**

The SEA shall include in its report a certification signed by an authorized official of the agency that the information provided is an accurate and unduplicated count of children with disabilities receiving special education and related services on the dates in question.

(Authority: 20 U.S.C. 1411(a)(3); 1417(b))

**§ 300.753 Annual report of children served—criteria for counting children.**

(a) The SEA may include in its report children with disabilities who are enrolled in a school or program that is operated or supported by a public agency, and that either—

(1) Provides them with both special education and related services; or

(2) Provides them only with special education if they do not need related services to assist them in benefitting from that special education.

(b) The SEA may not include children with disabilities in its report who—

(1) Are not enrolled in a school or program operated or supported by a public agency;

(2) Are not provided special education that meets State standards;

(3) Are not provided with a related service that they need to assist them in benefitting from special education;

(4) Are counted by a State agency under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; or

(5) Are receiving special education funded solely by the Federal Government. However, the State may count children covered under § 300.186(b).

(Authority: 20 U.S.C. 1411(a)(3); 1417(b))

NOTE 1: Under paragraph (a) of this section, the State may count children with disabilities in a Head Start or other preschool program operated or supported by a public agency if those children are provided special education that meets State standards.

NOTE 2: Special education, by statutory definition, must be at no cost to parents. As of September 1, 1978, under the FAPE requirement, both special education and related services must be at no cost to parents.

There may be some situations, however, where a child receives special education from a public source at no cost, but whose parents pay for the basic or regular education. This child may be counted. The Department expects that there would only be limited situations where special education would be clearly separate from regular education—generally, where speech services is the only special education required by the child. For example, the child's parents may have enrolled the child in a regular program in a private school, but the child might be receiving speech services in a program funded by the LEA. Allowing these children to be counted will provide incentives (in addition to complying with the legal requirement in section 613(a)(4)(A) of the Act regarding private schools) to public agencies to provide services to children enrolled by their parents in private schools, since funds are generated in part on the basis of the number of children provided special education and related services. Agencies should understand, however, that if a public agency places or refers a child with a disability to a public or private school for educational purposes, special education includes the entire educational program provided to the child. In that case, parents may not be charged for any part of the child's education.

A State may not count Indian children on or near reservations and children on military facilities if it provides them no special education. If an SEA or LEA is responsible for serving these children, and does provide them special education and related services, they may be counted.

**§ 300.754 Annual report of children served—other responsibilities of the State educational agency.**

In addition to meeting the other requirements of §§ 300.750–300.753, the SEA shall—

(a) Establish procedures to be used by LEAs and other educational institutions in counting the number of children with disabilities receiving special education and related services;

(b) Set dates by which those agencies and institutions must report to the SEA to ensure that the State complies with § 300.750(a);

(c) Obtain certification from each agency and institution that an unduplicated and accurate count has been made;

(d) Aggregate the data from the count obtained from each agency and institution, and prepare the reports required under §§ 300.750–300.753; and

(e) Ensure that documentation is maintained that enables the State and the Secretary to audit the accuracy of the count.

(Authority: 20 U.S.C. 1411(a)(3); 1417(b))

NOTE: States should note that the data required in the annual report of children served are not to be transmitted to the Secretary in personally identifiable form. States are encouraged to collect these data in non-personally identifiable form.

(Approved by the Office of Management and Budget under control number 1820-0043)

[57 FR 44798, Sept. 29, 1992, as amended at 58 FR 13528, Mar. 11, 1993]

#### APPENDIXES A AND B TO PART 300 [RESERVED]

#### APPENDIX C TO PART 300—NOTICE OF INTERPRETATION

- I. Purpose of the IEP
- II. IEP Requirements

##### *§ 300.340 Definition*

##### *§ 300.341 State educational agency responsibility*

1. Who is responsible for ensuring the development of IEPs for children with disabilities served by a public agency other than an LEA?
2. For a child placed out of State by a public agency, is the placing or receiving State responsible for the child's IEP?

##### *§ 300.342 When individualized education programs must be in effect*

3. In requiring that an IEP be in effect before special education and related services are provided, what does "be in effect" mean?
4. How much of a delay is permissible between the time an IEP of a child with a disability is finalized and when special education is provided?
5. For a child with a disability receiving special education for the first time, when must an IEP be developed—before placement or after placement?
6. If a child with a disability has been receiving special education in one LEA and moves to another community, must the new LEA hold an IEP meeting before the child is placed in a special education program?

##### *§ 300.343 Meetings*

7. What is the purpose of the 30 day timeline in § 300.343(c)?
8. Must the agency hold a separate meeting to determine a child's eligibility for special education and related services, or can this step be combined with the IEP meeting?

9. Must IEPs be reviewed or revised at the beginning of each school year?
10. How frequently must IEP meetings be held and how long should they be?
11. Who can initiate IEP meetings?
12. May IEP meetings be tape-recorded?

##### *§ 300.344 Participants in meetings*

##### (AGENCY REPRESENTATIVE)

13. Who can serve as the representative of the public agency at an IEP meeting?
14. Who is the representative of the public agency if a child with a disability is served by a public agency other than the SEA or LEA?

##### (THE CHILD'S TEACHER)

15. For a child with a disability being considered for initial placement in special education, which teacher should attend the IEP meeting?
16. If a child with a disability is enrolled in both regular and special education classes, which teacher should attend the IEP meeting?
17. If a child with a disability in high school attends several regular classes, must all of the child's regular teachers attend the IEP meeting?
18. If a child's primary disability is a speech impairment, must the child's regular teacher attend the IEP meeting?
19. If a child is enrolled in a special education class because of a primary disability and also receives speech-language pathology services, must both specialists attend the IEP meeting?

##### (THE CHILD, PARENTS, OTHER INDIVIDUALS)

20. When may representatives of teacher organizations attend IEP meetings?
21. When may a child with a disability attend an IEP meeting?
22. Do the parents of a student with a disability retain the right to attend the IEP meeting when the student reaches the age of majority?
23. Must related services personnel attend IEP meetings?
24. Are agencies required to use a case manager in the development of an IEP for a child with a disability?
25. For a child with a suspected speech impairment, who must represent the evaluation team at the IEP meeting?

##### *§ 300.345 Parent participation*

26. What is the role of the parents at an IEP meeting?
27. What is the role of a surrogate parent at an IEP meeting?
28. Must the public agency let the parents know who will be at the IEP meeting?
29. Are parents required to sign IEPs?